

AMENDED IN SENATE MAY 18, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1031

Introduced by Senator Corbett

February 12, 2010

An act to add Article 17.1 (commencing with Section 2399) to Chapter 5 of Division 2 of, and to repeal Section 2399.7 of, the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as amended, Corbett. Medical malpractice insurance: volunteer physicians and surgeons.

Under existing law, the Medical Practice Act, the Medical Board of California is responsible for the certification and regulation of physicians and surgeons. Existing law requires the board, in conjunction with the Health Professions Education Foundation, to study the issue of providing medical malpractice insurance to volunteer physicians and surgeons and to report its findings to the Legislature by January 1, 2008.

The bill would create the Volunteer Insured Physicians Program, administered by the board, to provide specified medical malpractice insurance coverage to volunteer physicians providing uncompensated care to ~~low-income~~ patients pursuant to a contract with a qualified health care entity, as defined. The bill would provide unspecified funding for the program from the Contingent Fund of the Medical Board of California for a limited period of time. The bill would require annual reports to the Legislature until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 17.1 (commencing with Section 2399) is
2 added to Chapter 5 of Division 2 of the Business and Professions
3 Code, to read:

4
5
6

Article 17.1. Volunteer Insured Physicians Program

7 2399. This article shall be known and may be cited as the
8 Volunteer Insured Physicians (VIP) Act, which authorizes the
9 creation and implementation of the Volunteer Insured Physicians
10 (VIP) Program *within the Medical Board of California.*

11 2399.1. (a) For purposes of this article, the following
12 definitions shall apply:

13 (1) “Licensee” means the holder of a *current* physician and
14 surgeon’s certificate who is engaged in the professional practice
15 authorized by the certificate under the jurisdiction of the board.

16 (2) ~~“Volunteer physician” means a licensee under this chapter
17 who volunteers to provide primary care medical services, as
18 described in Section 2399.3, to a low-income patient, with no
19 monetary or material compensation.~~

20 (3) ~~“Qualified health care entity” means a county health
21 department, hospital district, or hospital or clinic owned and
22 operated by a governmental entity.~~

23 (4) ~~“Low-income patient” means a person who is without health
24 care coverage and whose family income does not exceed 200
25 percent of the federal poverty level, as defined annually by the
26 federal Office of Management and Budget. *certificate.*~~

27 (2) “Patient” means a person who is eligible for free or
28 discounted services at a qualified health care entity.

29 (3) “Qualified health care entity” means a community clinic as
30 defined in subdivision (a) of Section 1204 of, or subdivision (c) of
31 Section 1206 of, the Health and Safety Code, a county health
32 department, or a hospital district, hospital, or a clinic owned and
33 operated by a governmental entity that provides primary care to
34 low-income patients.

35 (5)

36 (4) “Voluntary service agreement” means an agreement executed
37 pursuant to this article between the board, a licensee, and a

1 qualified health care entity that authorizes the health care entity
2 to enter into a voluntary service contract with the licensee.

3 ~~(6)~~

4 (5) “Voluntary service application” means the written
5 application developed by the board that a licensee must complete
6 and submit in order to be considered for participation in the VIP
7 Program.

8 ~~(7)~~

9 (6) “Voluntary service contract” means an agreement executed
10 pursuant to this article between a licensee and a qualified health
11 care entity that authorizes the licensee to deliver health care
12 services to ~~low-income~~ patients as an agent of the qualified health
13 care entity on a ~~volunteer~~ *voluntary*, uncompensated basis.

14 (7) “*Volunteer physician*” means a licensee under this chapter
15 who provides primary care medical services in California without
16 receiving monetary or material compensation and who is
17 participating in the VIP Program.

18 2399.2. (a) A licensee who wants to provide voluntary,
19 uncompensated care to ~~low-income~~ patients, but who does not
20 have medical professional liability insurance that ~~would include~~
21 provides insurance coverage for premiums, defense, and indemnity
22 costs for any claims arising from voluntary and uncompensated
23 care, may submit a voluntary service application to the board for
24 coverage under the VIP Program.

25 ~~(b) A licensee who submits an application for a waiver of initial~~
26 ~~and renewal licensing fees under Section 2083 or 2442 and who~~
27 ~~also submits a voluntary service application shall be simultaneously~~
28 ~~assessed by the board for eligibility to receive medical professional~~
29 ~~liability insurance coverage for premiums, defense, and indemnity~~
30 ~~costs through the VIP Program.~~

31 (b) *When the board receives an application for voluntary license*
32 *status under Section 2083 or 2442, the board shall assess whether*
33 *the applicant qualifies for coverage under the VIP Program and*
34 *notify the applicant of its finding.*

35 (c) A licensee who has standard medical professional liability
36 insurance coverage for his or her regular practice but who is not
37 covered for volunteer service may submit a voluntary service
38 application to participate in the VIP Program. In conjunction with
39 the voluntary service application, the licensee shall submit
40 verification from his or her medical professional liability insurance

1 carrier that voluntary, uncompensated care is not covered by his
2 or her existing medical professional liability insurance policy.

3 (d) The board shall review the voluntary service application to
4 determine if the applicant meets the criteria for VIP Program
5 participation. These criteria shall include both of the following:

6 (1) Holding an active license in good standing to practice
7 medicine in the State of California.

8 (2) No record of disciplinary action by the board or any other
9 regulatory board.

10 (e) ~~Continued eligibility~~ *Eligibility* for the VIP Program shall
11 be reassessed by the board during each license renewal cycle.

12 2399.3. (a) Licensees approved by the board for participation
13 in the VIP Program may enter into a voluntary service agreement
14 with the board and a qualified health care entity that acknowledges
15 the terms of the VIP Program and transfers responsibility from the
16 volunteer physician to the state for medical professional liability
17 insurance, including premiums, defense, and indemnity costs, for
18 voluntary, uncompensated medical care that is provided in
19 accordance with an executed and signed voluntary service contract
20 between the volunteer physician and the qualified health care entity
21 and that complies with the terms of the VIP Program.

22 (b) Volunteer physicians participating in the VIP Program shall
23 agree to limit the scope of the volunteer medical care to primary
24 care medical services.

25 (c) The voluntary service contract between the volunteer
26 physician and the qualified health care entity shall include all of
27 the following provisions:

28 (1) All care provided shall be both voluntary and uncompensated
29 ~~and shall be provided to low-income patients.~~ .

30 (2) Patient selection and initial referral shall be made solely by
31 the qualified health care entity and the volunteer physician shall
32 accept all referred patients except as otherwise allowed by law.
33 However, the number of patients that must be accepted may be
34 limited by the voluntary service contract and patients may not be
35 transferred to the volunteer physician ~~based on a~~ *in* violation of
36 any antidumping provisions of the Omnibus Budget Reconciliation
37 Act of 1989 (P.L. 101-239) or the Omnibus Budget Reconciliation
38 Act of 1990 (P.L. 101-508).

1 (3) The qualified health care entity shall have access to the
2 patient records of the volunteer physician delivering services under
3 the voluntary service contract.

4 (4) The volunteer physician shall be subject to ~~supervision by~~
5 the qualified health care entity's standard peer review process and
6 all related laws regarding peer review, including, but not limited
7 to, the filing of reports pursuant to Section 805.

8 (5) ~~The~~ *If the qualified health care entity has no peer review*
9 *process, the* qualified health care entity shall utilize a quality
10 assurance program to monitor services delivered by the volunteer
11 physician under the voluntary ~~services~~ *service* contract.

12 (6) The right to dismiss or terminate a volunteer physician
13 delivering services under the voluntary service contract shall be
14 retained by the qualified health care entity. If the ~~volunteer services~~
15 *voluntary service* contract is terminated, the qualified health care
16 entity shall notify the VIP Program in writing within five days.

17 2399.4. The fact that a volunteer physician is insured under
18 the VIP Program in relation to particular medical services rendered
19 shall not operate to change or affect the laws applicable to any
20 claims arising from or related to those medical services. All laws
21 applicable to a claim remain the same regardless of whether a
22 licensee is insured through the VIP Program.

23 2399.5. If a volunteer physician covered by the VIP Program
24 receives notice or otherwise obtains knowledge that a claim of
25 professional medical negligence has been or may be filed, the
26 *volunteer* physician shall immediately notify the VIP Program or
27 the contracted liability carrier.

28 2399.6. All costs for administering the VIP Program, including
29 the cost of medical professional liability insurance for premiums,
30 defense, and indemnity coverage for program participants, shall
31 be paid for from the Contingent Fund of the Medical Board of
32 California, in an amount not to exceed ____ dollars (\$____) per
33 year.

34 2399.7. (a) The board shall report annually to the Legislature
35 summarizing the efficacy of access and ~~treatment~~ outcomes with
36 respect to providing health care services for ~~low-income~~ patients
37 pursuant to this article. The report shall include the numbers of
38 injuries and deaths reported, claims statistics for all care rendered
39 under the VIP Program, including the total of all premiums paid,
40 the number of claims made for each year of the VIP Program, the

1 amount of all indemnity payments made, the cost of defense
2 provided, and administration costs associated with all claims made
3 against volunteer physicians arising from voluntary and
4 uncompensated care provided under the VIP Program.

5 (b) (1) A report to be submitted pursuant to subdivision (a)
6 shall be submitted in compliance with Section 9795 of the
7 Government Code.

8 (2) Pursuant to Section 10231.5 of the Government Code, this
9 section is repealed on January 1, 2015.

10 2399.75. *Nothing in this article shall be construed to prevent*
11 *the board from taking appropriate action against a licensee.*

12 2399.8. This article shall remain operative until January 1,
13 2016, or until another viable source of funding is identified and
14 adopted, whichever occurs first.